



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2012-0351; FRL-9927-81-Region 8]

Approval and Promulgation of State Implementation Plans; State of Wyoming; Interstate Transport of Pollution for the 2006 24-Hour PM_{2.5} NAAQS

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve portions of an August 19, 2011 State Implementation Plan (SIP) submission from the State of Wyoming that are intended to demonstrate that its SIP meets certain interstate transport requirements of the Clean Air Act (Act or CAA) for the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). This submission addresses the requirement that Wyoming's SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. Specifically, EPA is proposing to approve the portion of the Wyoming SIP submission that addresses the significant contribution to nonattainment and interference with maintenance transport requirements for the 2006 24-hour PM_{2.5} NAAQS. EPA is also proposing to approve the interference with prevention of significant deterioration (PSD) of air quality transport requirement for this NAAQS, and is not proposing action on the interference with visibility transport requirement at this time. EPA will address the visibility requirement for this NAAQS in a separate future action.

DATES: Comments must be received on or before **insert date 30 days after publication in the Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2012-0351, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Email: clark.adam@epa.gov
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2012-0351. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> web site is an

“anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I, General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

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Colorado 80202-1129, (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials CAIR mean or refer to the Clean Air Interstate Rule.
- (iii) The initials CSAPR mean or refer to the Cross-State Air Pollution Rule.
- (iv) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
- (v) The initials NAAQS mean or refer to the National Ambient Air Quality Standards.
- (vi) The initials NSR mean or refer to New Source Review.
- (vii) The initials PM_{2.5} mean or refer to fine particulate matter.
- (viii) The initials PSD mean or refer to Prevention of Significant Deterioration.
- (ix) The initials SIP mean or refer to State Implementation Plan.
- (x) The initials TSD mean or refer to Technical Support Document.
- (xi) The initial ug/m³ mean or refer to micrograms per cubic meter.
- (xii) The initials WDEQ mean or refer to the Wyoming Department of Environmental Quality.
- (xiii) The words Wyoming and State mean the State of Wyoming, unless the context indicates otherwise.

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I. General Information

What should I consider as I prepare my comments for EPA?

1. Submitting confidential business information (CBI). Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

A. 2006 PM_{2.5} NAAQS and Interstate Transport

On September 21, 2006, EPA promulgated a final rule revising the 1997 24-hour primary and secondary NAAQS for PM_{2.5} from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$ (October 17, 2006, 71 FR 61144).

Section 110(a)(1) of the CAA requires each state to submit to EPA, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the “implementation,

maintenance, and enforcement” of such NAAQS. EPA refers to these specific submittals as “infrastructure” SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS. For the 2006 24-hour PM_{2.5} NAAQS, these infrastructure SIPs were due on September 21, 2009. CAA section 110(a)(2) includes a list of specific elements that “[e]ach such plan submission” must meet.

The interstate transport provisions in CAA section 110(a)(2)(D)(i) (also called “good neighbor” provisions) require each state to submit a SIP that prohibits emissions that will have certain adverse air quality effects in other states. CAA section 110(a)(2)(D)(i) identifies four distinct elements related to the impacts of air pollutants transported across state lines. The two elements under 110(a)(2)(D)(i)(I) require SIPs to contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will (element 1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (element 2) interfere with maintenance by any other state with respect to the same NAAQS. The two elements under 110(a)(2)(D)(i)(II) require SIPs to contain adequate provisions to prohibit emissions that will interfere with measures required to be included in the applicable implementation plan for any other state under part C (element 3) to prevent significant deterioration of air quality or (element 4) to protect visibility. In this action, EPA is addressing elements one, two and three of CAA section 110(a)(2)(D)(i).

B. Rules Addressing Interstate Transport for the 2006 PM_{2.5} NAAQS

EPA has previously addressed the requirements of CAA section 110(a)(2)(D)(i)(I) in past regulatory actions.¹ Most recently, EPA published the final Cross State Air Pollution Rule

¹ See NO_x SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

(CSAPR or “Transport Rule”) to address CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States with respect to the 2006 PM_{2.5} NAAQS, the 1997 PM_{2.5} NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). CSAPR replaces the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.² *See North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit issued a decision vacating CSAPR, *see EME Homer City Generation, L.P. v. E.P.A.*, 696 F.3d 7 (D.C. Cir. 2012), and ordering EPA to continue implementing CAIR in the interim. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit’s ruling and upheld EPA’s approach in the CSAPR. *EPA v. EME Homer City Generation, L.P.*, 134 S.Ct. 1584, 1610 (2014). After the U.S. Supreme Court decision, EPA filed a motion to lift the stay on CSAPR and asked the D.C. Circuit to toll CSAPR’s compliance deadlines by three years. On October 23, 2014 the D.C. Circuit granted EPA’s motion and lifted the stay on CSAPR. *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. Oct. 23, 2014), Order at 3. EPA began CSAPR implementation on January 1, 2015 pursuant to the D.C. Circuit’s directive lifting the stay. The State of Wyoming was not covered by CSAPR, and EPA made no determinations in the rule regarding whether emissions from sources in Wyoming significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in another state.

C. EPA Guidance

On September 25, 2009, EPA issued a guidance memorandum that provides recommendations to states for making submissions to meet the requirements of CAA section 110(a)(2)(D)(i) for the 2006 PM_{2.5} standards (“2006 PM_{2.5} NAAQS Infrastructure Guidance” or

² CAIR addressed the 1997 annual and 24-hour PM_{2.5} NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour PM_{2.5} NAAQS.

“Guidance”).³ With respect to element 1 of CAA section 110(a)(2)(D)(i) to prohibit emissions that will contribute significantly to nonattainment of the NAAQS in any other state, the 2006 PM_{2.5} NAAQS Infrastructure Guidance advised states to include in their section 110(a)(2)(D)(i)(I) SIP submissions an adequate technical analysis to support their conclusions regarding interstate pollution transport, *e.g.*, information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the nearest areas not attaining the NAAQS in other states, and air quality modeling.⁴

With respect to element 2 of CAA section 110(a)(2)(D)(i) to prohibit emissions that would interfere with maintenance of the NAAQS by any other state, the Guidance stated that SIP submissions must address this independent and distinct requirement of the statute and provide technical information appropriate to support the State’s conclusions, and suggested consideration of the same technical information that would be appropriate for element 1 of this CAA requirement.

In this action, EPA is proposing to use the conceptual approach to evaluating interstate pollution transport under CAA section 110(a)(2)(D)(i)(I) that EPA explained in the 2006 PM_{2.5} NAAQS Infrastructure Guidance and CSAPR. As such, we find that the CAA section 110(a)(2)(D)(i)(I) SIP submission from Wyoming may be evaluated using a “weight of

³ See Memorandum from William T. Harnett entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS),” September 25, 2009, available at http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.

⁴ The 2006 PM_{2.5} NAAQS Infrastructure Guidance stated that EPA was working on a new rule to replace CAIR that would address issues raised by the court in the *North Carolina* case and that would provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS. It also noted that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour PM_{2.5} NAAQS because the CAIR rule did not address this NAAQS. See 2006 PM_{2.5} NAAQS Infrastructure Guidance at 3.

evidence” approach that takes into account available relevant information, including the factors recommended in the 2006 PM_{2.5} NAAQS Infrastructure Guidance. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

With respect to the requirements in section 110(a)(2)(D)(i)(II) which address elements 3 (PSD) and 4 (visibility), EPA most recently issued an infrastructure guidance memo on September 13, 2013 that included guidance on these two elements.⁵ For the purposes of this action, this memo will hereon be referred to as the “2013 I-SIP Guidance.”

III. Wyoming’s Submittal

On August 19, 2011, the Wyoming Department of Environmental Quality (WDEQ) made a submission certifying that Wyoming’s SIP is adequate to implement the 2006 24-hour PM_{2.5} NAAQS for all the “infrastructure” requirements of CAA section 110(a)(2). In this analysis, WDEQ simply listed the regulatory and non-regulatory documents that it felt demonstrated the Wyoming SIP’s adequacy to meet the 110(a)(2) requirements with respect to the 2006 24-hour PM_{2.5} NAAQS.⁶

To meet the requirements of CAA sections 110(a)(2)(D)(i)(I) (elements 1 and 2), WDEQ’s submission referenced the State’s May 3, 2007 interstate transport SIP. The May 3, 2007 SIP was determined by EPA to meet the interstate transport requirements of CAA section 110(a)(2)(D)(i) for the 1997 ozone and PM_{2.5} NAAQS, and was therefore approved by EPA on May 8, 2008 (73 FR 26019). However, Wyoming’s May 3, 2007 SIP did not address the 2006

⁵ See “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)” dated September 13, 2013, in the docket for this action.

⁶ WDEQ’s certification letter, dated August 19, 2011 is included in the docket for this action.

24-hour PM_{2.5} NAAQS. On April 23, 2015, WDEQ sent EPA a letter clarifying that it considered the factors relied upon as part of the May 3, 2007 submittal to also be applicable to a transport analysis for the 2006 24-hour PM_{2.5} NAAQS.⁷

To meet the element 3 (PSD) requirement of CAA section 110(a)(2)(D)(i), Wyoming referenced Wyoming Air Quality Standards and Regulations (WAQSR) Chapter 6, section 2, Permit requirements for construction, modification, and operation, as well as its May 3, 2007 Interstate Transport SIP. In its April 23, 2015 letter to EPA, Wyoming clarified its element 3 submittal by indicating that it will issue permits to sources locating in nonattainment areas pursuant to 40 CFR part 51, appendix S until it has a SIP-approved nonattainment NSR program.

IV. EPA's Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, EPA first determines whether a state's emissions contribute significantly to nonattainment or interfere with maintenance in other states. If a state is determined not to have such contribution or interference, then section 110(a)(2)(D)(i)(I) does not require any changes to that state's SIP.

Consistent with the first step of EPA's approach in the 1998 NO_x SIP call, the 2005 CAIR, and the 2011 CSAPR, EPA evaluated impacts of emissions from Wyoming with respect to specific ambient air monitors identified as having nonattainment and/or maintenance problems, which we refer to as "receptors." To evaluate these impacts, and in the absence of relevant modeling of Wyoming emissions, EPA examined factors suggested by the 2006 Guidance such as monitoring data, topography, and meteorology. EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence

⁷ Wyoming's clarification letter is available in the docket for this action. Wyoming's May 3rd, 2007 Interstate Transport SIP can be found in the docket for that action (EPA-R08-OAR-2007-0648).

taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour PM_{2.5} NAAQS in another state.

As noted above, Wyoming's August 19, 2011 submission does not include a technical demonstration specific to the 2006 24-hour PM_{2.5} NAAQS. Rather, the State relied on the transport analysis it conducted for a previous PM_{2.5} NAAQS, later clarifying that it had considered parts of this analysis to be relevant for the purposes of the 2006 PM_{2.5} standard. While EPA does not agree with the State's position that the analysis from its May 3, 2007 is also applicable to the 2006 24-hour PM_{2.5} NAAQS, we agree with Wyoming's determination that the existing SIP has adequate provisions to meet the CAA requirements based on EPA's supplemental evaluation. For this reason, we propose to approve the 110(a)(2)(D)(i)(I) portion of the submission based on EPA's supplemental evaluation of relevant technical information. Our evaluation demonstrates that emissions from Wyoming do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in any other state and that the existing Wyoming SIP is, therefore, adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS.

Our supplemental evaluation considers several factors, including identification of the ambient air monitors in other states that are appropriate "nonattainment receptors" or "maintenance receptors," consistent with EPA's approach in the CSAPR, and additional technical information to evaluate whether emissions from Wyoming contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS at these receptors.

Our Technical Support Document (TSD) contains a detailed evaluation and is available in the public docket for this rulemaking, which may be accessed online at <http://www.regulations.gov>, docket number EPA-R08-OAR-2012-0351. Below, we provide a summary of our analysis.

A. Identification of Nonattainment and Maintenance Receptors

EPA evaluated data from existing monitors over three overlapping 3-year periods (i.e., 2009-2011, 2010-2012, and 2011-2013) to determine which areas are expected to be violating the 2006 24-hour PM_{2.5} NAAQS and which areas might have difficulty maintaining attainment of the standard. If a monitoring site measured a violation of the 2006 24-hour PM_{2.5} NAAQS during the most recent 3-year period (2011-2013), then that monitor location was evaluated for purposes of the significant contribution to nonattainment (element 1) of section 110(a)(2)(D)(i). If, on the other hand, a monitoring site shows attainment of the 2006 24-hour PM_{2.5} NAAQS during the most recent 3-year period (2011-2013) but a violation in at least one of the previous two 3-year periods (2010-2012 or 2009-2011), then that monitor location was evaluated for purposes of the interfere with maintenance (element 2) of section 110(a)(2)(D)(i).

This approach is similar to that used in the modeling done during the development of CSAPR, but differs in that it relies on monitoring data (rather than modeling) for the western states not included in the CSAPR modeling domain.⁸ By this method, EPA has identified those areas with monitors to be considered “nonattainment receptors” or “maintenance receptors” for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area.

EPA continues to believe that the more widespread and serious transport problems in the

⁸ As noted, the State of Wyoming was not included in the CSAPR modeling domain.

eastern United States are analytically distinct. For the 2006 24-hour PM_{2.5} NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In CSAPR, EPA did not calculate the portion of any downwind state's predicted PM_{2.5} concentrations that would result from emissions from individual western states, such as Wyoming. Accordingly, EPA believes that section 110(a)(2)(D)(i)(I) SIP submissions for states outside the geographic area analyzed to develop CSAPR may be evaluated using a “weight of evidence” approach that takes into account available relevant information, such as that recommended by the EPA in the Guidance. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider as to whether sources in the state may contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

B. Evaluation of Significant Contribution to Nonattainment

EPA reviewed technical information to evaluate the potential for Wyoming emissions to contribute significantly to nonattainment of the 2006 24-hour PM_{2.5} NAAQS at specified monitoring sites in the Western U.S.⁹ EPA first identified as “nonattainment receptors” all

⁹ EPA also considered potential PM_{2.5} transport from Wyoming to the nearest nonattainment and maintenance receptors located in the eastern, midwestern and southern states covered by CSAPR and believes it is reasonable to

monitoring sites in the western states that had recorded PM_{2.5} design values above the level of the 2006 24-hour PM_{2.5} NAAQS (35 µg/m³) during the years 2011-2013.¹⁰ See Section III of our TSD for more a more detailed description of EPA's methodology for selection of nonattainment receptors.

Because geographic distance is a relevant factor in the assessment of potential pollution transport, EPA first reviewed information related to potential transport of PM_{2.5} pollution from Wyoming to the nonattainment receptors in states bordering Wyoming, which were located in Idaho, Montana and Utah. As detailed in our TSD, the following factors support a finding that emissions from Wyoming do not significantly contribute to nonattainment of the 2006 24-hour PM_{2.5} NAAQS in Idaho, Montana and Utah: (1) technical information, such as data from monitors in the vicinity of these nonattainment receptors, related to the nature of local emissions; (2) topographical considerations such as intervening mountain ranges which tend to create physical impediments for pollution transport; and 3) meteorological considerations such as prevailing winds. While none of these factors by itself would necessarily show non-contribution, when taken together in a weight-of-evidence assessment they are sufficient for EPA to determine that emissions from Wyoming do not significantly contribute to nonattainment at the Idaho, Montana and Utah receptors.

conclude that, given the significant distance from Wyoming to the nearest such receptor (in Wisconsin) and the relatively insignificant amount of emissions from Wyoming that could potentially be transported such a distance when compared to downwind states whose contribution was modeled for CSAPR, emissions from Wyoming sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS at this location. These same factors also support a finding that emissions from Wyoming sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS at any location further east. See TSD at section I.B.3.

¹⁰ Because CAIR did not cover states in the Western United States, these data are not significantly impacted by the remanded CAIR and thus could be considered in this analysis. In contrast, recent air quality data in the eastern, midwestern and southern states are significantly impacted by reductions associated with CAIR and because CSAPR was developed to replace CAIR, EPA could not consider reductions associated with the CAIR in the base case transport analysis for those states. See 76 FR at 48223-24.

EPA also evaluated potential PM_{2.5} transport to nonattainment receptors in the more distant western states of Oregon and California. The following factors support a finding that emissions from Wyoming do not significantly contribute to nonattainment of the 2006 24-hour PM_{2.5} NAAQS in any of these states: (1) the significant distance from Wyoming to the nonattainment receptors in these states; (2) technical information, such as data from nearby monitors related to the nature of local emissions; and (3) the presence of intervening mountain ranges, which tend to impede pollution transport.

Based on our evaluation, we propose to conclude that emissions of direct PM_{2.5} and PM_{2.5} precursors from sources in the State of Wyoming do not significantly contribute to nonattainment of the 2006 24-hour PM_{2.5} standards in any other state, that the existing SIP for the State of Wyoming is adequate to satisfy the “significant contribution” requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 2006 24-hour PM_{2.5} standards, and that the State of Wyoming therefore does not need to adopt additional controls for purposes of implementing the “significant contribution to nonattainment” requirement of 110(a)(2)(D)(i)(I) with respect to that NAAQS at this time.

C. Evaluation of Interference with Maintenance

We also reviewed technical information to evaluate the potential for Wyoming emissions to interfere with maintenance of the 2006 24-hour PM_{2.5} standards at specified monitoring sites in the Western U.S. EPA first identified as “maintenance receptors” all monitoring sites in the western states that had recorded PM_{2.5} design values above the level of the 2006 24-hour PM_{2.5} NAAQS (35 µg/m³) during the 2009-2011 and/or 2010-2012 periods but below this standard during the 2011-2013 period. See section III of our TSD for more information regarding EPA’s methodology for selection of maintenance receptors. All of the maintenance receptors in the

western states are located in California, Utah and Montana. EPA therefore evaluated the potential for transport of Wyoming emissions to the maintenance receptors located in these states. As detailed in our TSD, the following factors support a finding that emissions from Wyoming do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in those states: (1) technical information, such as data from monitors near maintenance receptors, relating to the nature of local emissions, and (2) the significant distance between Wyoming and these maintenance receptors.

Based on this evaluation, EPA proposes to conclude that emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors from sources in the State of Wyoming do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ standards in any other state, that the existing SIP for the State of Wyoming is adequate to satisfy the “interfere with maintenance” requirements of CAA section 110(a)(2)(D)(i)(I), and that the State of Wyoming therefore does not need to adopt additional controls for purposes of implementing the “interfere with maintenance” requirements of CAA section 110(a)(2)(D)(i)(I) with respect to that NAAQS at this time.

D. Evaluation of Interference with Measures to Prevent Significant Deterioration

With regard to the PSD portion of CAA section 110(a)(2)(D)(i)(II), this requirement may be met by a state’s confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to a comprehensive EPA-approved PSD permitting program in the SIP that applies to all regulated new source review (NSR) pollutants and that satisfies the requirements of EPA’s PSD implementation rules.¹¹ On December 6, 2013, EPA approved CAA section 110(a)(2) elements (C) and (J) for Wyoming’s infrastructure SIP for the 2006 24-hour $PM_{2.5}$ NAAQS with respect to PSD requirements for regulated NSR pollutants (78

¹¹ See 2013 I-SIP Guidance.

FR 73445). As discussed in detail in the proposed rulemaking for that final action, the concurrent approval of PSD-related revisions which incorporated certain requirements of the 2010 PM_{2.5} Increment Rule to the Wyoming SIP action ensured that Wyoming's SIP-approved PSD program meets the current structural requirements of 110(a)(2)(C) and (J) to have a PSD program that applies to all regulated NSR pollutants.¹²

As stated in the 2013 I-SIP Guidance, in-state sources not subject to PSD for any one or more of the pollutants subject to regulation under the CAA because they are in a nonattainment area for a NAAQS related to those particular pollutants may also have the potential to interfere with PSD in an attainment or unclassifiable area of another state. One way a state may satisfy element 3 with respect to these sources is by citing an air agency's EPA-approved nonattainment NSR provisions addressing any pollutants for which the state has designated nonattainment areas. Alternatively, if an air agency makes a submission indicating that it issues permits pursuant to 40 CFR part 51, appendix S in a nonattainment area because a nonattainment NSR program for a particular NAAQS pollutant has not yet been approved by EPA for that area, that permitting program may generally be considered adequate for purposes of meeting the requirements of element 3 with respect to sources and pollutants subject to such program. Where neither of the circumstances described above exist, it may also be possible for EPA to find, given the facts of the situation, that other SIP provisions and/or physical conditions are adequate to prohibit interference by such sources with other air agencies' measures to prevent significant deterioration of air quality.

¹² As described in the proposed action (78 FR 54828, September 6, 2013) for the final December 6, 2013 rulemaking, EPA did not approve certain portions of the State's incorporation of the 2010 PM_{2.5} Increment Rule because these portions were ultimately removed from EPA's PSD regulations.

EPA recently finalized a rulemaking which disapproved a portion of Wyoming's May 10, 2011 SIP revision that attempted to add nonattainment NSR permitting requirements to the state plan for the first time (80 FR 9194, February 20, 2015). In this partial disapproval, EPA found that this SIP revision failed to create unambiguous and enforceable obligations for sources that would be subject to the nonattainment NSR requirements. Accordingly, the State does not currently have any SIP-approved nonattainment NSR permitting provisions which would subject sources locating in nonattainment areas in the State to regulation. The State has confirmed, via a clarification letter sent to EPA on April 23, 2015, that it will issue permits to sources locating in such nonattainment areas pursuant to 40 CFR part 51, appendix S until it has a SIP-approved nonattainment NSR program.¹³

Because the State has committed to applying appendix S until it has a SIP-approved nonattainment NSR program, EPA is proposing to approve the infrastructure SIP submission with regard to the requirements of element 3 of section 110(a)(2)(D)(i) for the 2006 24-hour PM_{2.5} NAAQS.

V. Proposed Action

EPA is proposing to approve the 110(a)(2)(D)(i)(I) portion of Wyoming's August 19, 2011 submission. We propose to approve elements 1 and 2 of this portion of the submission based on EPA's supplemental evaluation of relevant technical information, which supports a finding that emissions from Wyoming do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM_{2.5} NAAQS in any other state and that the

¹³ EPA notes that the State's application of appendix S would only currently apply to the Upper Green River Basin 2008 ozone nonattainment area. Wyoming has had a construction ban in place and approved into the SIP for over twenty years in order to meet nonattainment NSR requirements in the Sheridan coarse particulate matter (PM₁₀) nonattainment area (See WAQSR, Chapter 6, section 2(c)(ii)(B)).

existing Wyoming SIP is, therefore, adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM_{2.5} NAAQS.

EPA is also proposing to approve element 3 of 110(a)(2)(D)(i) from Wyoming's August 19, 2011 submission, based on a finding that the Wyoming SIP is adequate to meet the PSD requirement of CAA section 110(a)(2)(D)(i)(II).

VI. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR

43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 1, 2015.

Shaun L. McGrath,
Regional Administrator,
Region 8.

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